

Message Text

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ACTION EUR-12

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AMEMBASSY BRUSSELS
INFO AMEMBASSY BONN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
AMEMBASSY BERLIN
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C O N F I D E N T I A L USBERLIN 1829

USEEC

E.O.11652 GDS
TAGS: PGOV, EEC, FR, GW, UK, US, WB
SUBJECT: EC COURT DECISION(S) CONCERNING BERLIN

SUMMARY: A NEWSPAPER ARTICLE HAS REPORTED THAT THE EC
COURT IN LUXEMBOURG, IN ANSWERING TWO QUESTIONS OF THE
BERLIN FINANCE COURT REGARDING DECISIONS ON CUSTOMS
LAW, HAS MADE CLEAR THAT IT IS COMPETENT IN WEST BERLIN.
END SUMMARY.

1. ON 7 JULY THE BERLINER MORGENPOST CARRIED THE FOLLOWING
ARTICLE: BEGIN TEXT (INFORMAL TRANSLATION):
COMPETENT FOR WEST-BERLIN EC COURT DECIDED TWO CUSTOMS CASES

THE COURT OF THE EUROPEAN COMMUNITY IN LUXEMBOURG
DEMONSTRATES THAT BERLIN IS NOT ONLY ON PAPER, BUT ALSO
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IN PRACTICE A COMPONENT (BESTANDTEIL) OF THE EC.
THE COURT ANSWERED QUESTIONS PRESENTED IN TWO DECISIONS
OF THE BERLIN FINANCE COURT AND PRONOUNCED ITSELF
COMPETENT IN WEST BERLIN.
AT ISSUE WAS WHETHER IT IS PERMITTED TO COLLECT
STANDARD EQUALIZATION DUTIES (WAEHRUNGS AUSGLEICH SABGABEN)
FOR THE IMPORT OF GOODS FROM THE EASTERN BLOC. A

BERLIN CUSTOMS AUTHORITY HAD ESTABLISHED THE DUTIES AND THE EC COURT HAD ANSWERED IN THE AFFIRMATIVE THE QUESTION OF THE BERLIN JUDGE WHETHER THE LEGAL BASIS FOR THAT ACT WAS SUFFICIENT. THE BERLIN CUSTOMS AUTHORITY REJECTED A RELATED APPLICATION TO ABATE (ERLASSEN) THE STANDARD DUTIES ON GROUNDS OF EQUITY (BILLIGKEITSGRUENDEN). THE BERLIN FINANCE COURT ASKED THE EC COURT TO DECIDE WHETHER A NATIONAL CUSTOMS AUTHORITY CAN DECIDE THE ABATEMENT OF DUTIES WHICH ARE COLLECTED ON THE BASIS OF EC LAW. IN THE ANSWER, WHICH HAS MEANING FOR THE ENTIRE EC SPHERE, THE EC COURT STATED: A NATIONAL CUSTOMS AUTHORITY IS NOT EMPOWERED TO ABATE ON GROUNDS OF EQUITY DUTIES WHICH ARE OWED PURSUANT TO EC LAW. THE NATIONAL CUSTOMS AUTHORITY MAY ABATE SUCH DUTIES ONLY PURSUANT TO SPECIFIED GROUNDS PERMITTED BY EC LAW. AT PRESENT THE COMMUNITY LAW CONTAINS NO LEGAL GROUNDS FOR THE ABATEMENT OF STANDARD EQUALIZATION BILLS (WAEHRUNGSAusGLEICHsbETRAEGEN) ON GROUNDS OF EQUITY. END TEXT.

2. THIS IS THE FIRST CASE THAT HAS COME TO OUR ATTENTION OF AN EC COURT RULING ON APPLICATION OF ECLAW OR REGULATION IN BERLIN. WE WOULD APPRECIATE RECEIPT OF ENGLISH, FRENCH, AND GERMAN LANGUAGE COPIES OF THE EC COURT DECISION (OR DECISIONS). (WE ASSUME CONFIDENTIAL

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EC COURT DECISIONS ARE NORMALLY PRINTED IN THOSE LANGUAGES). WE WOULD ALSO APPRECIATE ANY ANALYSIS WHICH US MISSION EC BRUSSELS COULD OFFER ON THE IMPORT OF THESE RULINGS. IN PARTICULAR, WHICH KIND OF LAW OR REGULATION WAS OPERATIVE IN THIS MATTER; HOW CUSTOMARY OR UNUSUAL WAS THE COURT'S RULING. IN SHORT, WE WOULD LIKE TO HAVE SUCH BACKGROUND AND ANALYSIS OF THESE RULINGS AS MAY ASSIST US IN ASSESSING THE IMPLICATIONS OF THIS RULING WITH RESPECT TO THE BERLIN-EC RELATIONSHIP.

3. WE WOULD ALSO APPRECIATE ANY INFORMATION WHICH US MISSION EC BRUSSELS OR OTHER ADDRESSEES MAY HAVE CONCERNING OTHER EC COURT OR COMMISSION RULINGS WHICH HAVE MENTIONED BERLIN, OR TOUCHED ON THE COMPETENECE OF THE EC IN BERLIN. GEORGE

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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
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